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## **DEPARTMENT OF LABOR**

### **Occupational Safety and Health Administration**

#### **29 CFR Part 1952**

**[Docket No. OSHA- 2015-0003]**

**RIN 1218-AC97**

#### **Maine State Plan for State and Local Government Employers**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Final rule.

**SUMMARY:** This document announces the publication of the regulatory provisions which formalize the initial approval of the Maine State and Local Government Only State Plan.

**DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

Initial approval of the Maine State Plan was granted on August 5, 2015.

#### **FOR FURTHER INFORMATION CONTACT:**

For press inquiries: Contact Francis Meilinger, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-1999; email [meilinger.francis2@dol.gov](mailto:meilinger.francis2@dol.gov).

For general and technical information: Contact Douglas J. Kalinowski, Director, OSHA Directorate of Cooperative and State Programs, Room N-3700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2200; email: [kalinowski.doug@dol.gov](mailto:kalinowski.doug@dol.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

On May 20, 2015, OSHA published a notice in the Federal Register (80 FR 28890) concerning the submission of the Maine State and Local Government Only State Plan, announcing that initial Federal approval of the Plan was at issue, and offering interested parties an opportunity to review the Plan and submit data, views, arguments or requests for a hearing concerning the Plan. No comments were received.

OSHA, after carefully reviewing the Maine State Plan for the development and enforcement of state standards applicable to state and local government employers and the record developed during the above described proceedings, determined that the requirements and criteria for initial approval of a developmental State Plan were met. The Plan was approved as a developmental State Plan for State and Local Government Only under Section 18 of the OSH Act on August 5, 2015. (80 FR 46487).

#### **B. Notice of publication of the regulatory description of the Maine State Plan.**

In light of the reorganization of the State Plan regulations through the streamlining of 29 CFR 1952 and 29 CFR 1956, OSHA deferred any change to those regulatory provisions relating to the Maine State Plan until the streamlining changes took effect. (80 FR 46487, 46492). These streamlining changes took effect October 19, 2015. (80 FR 49897, Aug. 18, 2015). Therefore OSHA is now amending 29 CFR 1952 to incorporate the description of the Maine State Plan.

#### **C. Regulatory Flexibility Act**

OSHA certifies pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) that the initial approval of the Maine State Plan will not have a significant economic impact on a substantial number of small entities. By its own terms, the Plan will have no effect on private sector employment, but is limited to the state and its political subdivisions. Moreover, Title 26, Labor and Industry, of the Maine Revised Statutes was enacted in 1971. This legislation

established the Board, whose purpose is to formulate rules that shall, at a minimum, conform with Federal standards of occupational safety and health, so the state program could eventually be approved as a State and Local Government Only State Plan. Since 1971 the Maine program for public employers has been in operation under the Maine Department of Labor with state funding and all state and local government employers in the state have been subject to its terms. Compliance with state OSHA standards is required by state law; Federal approval of a State Plan imposes regulatory requirements only on the agency responsible for administering the State Plan. Accordingly, no new obligations would be placed on public sector employers as a result of Federal approval of the Plan.

#### **D. Federalism**

Executive Order 13132, "Federalism," emphasizes consultation between Federal agencies and the states and establishes specific review procedures the Federal Government must follow as it carries out policies that affect state or local governments. OSHA has consulted extensively with Maine throughout the development, submission and consideration of its State Plan.

Although OSHA has determined that the requirements and consultation procedures provided in Executive Order 13132 are not applicable to initial approval decisions under the OSH Act, which have no effect outside the particular state receiving the approval, OSHA has reviewed this final rule, and believes it is consistent with the principles and criteria set forth in the Executive Order.

#### **E. Administrative Procedures**

This Federal Register document is designated a "final rule." That designation is necessary because OSHA publishes a description of every state plan in 29 CFR Part 1952. Because they are set forth in the Code of Federal Regulations, these descriptions can be added or updated only by publishing a "final rule" document in the final rules section of the Federal Register. Such rules

do not contain any new Federal regulatory requirements, but merely provide public information about the state plan.

Today's action is solely a formalization of the initial approval of the Maine State Plan, which was granted on August 5, 2015 (80 FR 46487).

### **List of Subjects in 29 CFR Part 1952**

Intergovernmental relations, Law enforcement, Occupational safety and health.

### **Authority and Signature**

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, D.C., authorized the preparation of this notice. OSHA is issuing this notice under the authority specified by Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), Secretary of Labor's Order No. 1-2012 (77 FR 3912), and 29 CFR Parts 1902 and 1956.

Signed in Washington, DC, on January 29, 2016.

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**David Michaels,**  
*Assistant Secretary of Labor for Occupational Safety and Health.*

### **Amendments to Regulation**

For the reasons set forth in the preamble of this final rule, 29 CFR part 1952 is amended as set forth below.

## **PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS**

1. The authority citation for part 1952 continues to read as follows:

**Authority:** Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR part 1902; Secretary of Labor's Order No. 1-2012 (77 FR 3912, Jan. 25, 2012).

### **Subpart B—List of Approved State Plans for State and Local Government Employees**

2. Add § 1952.28 to read as follows:

#### **§ 1952.28 Maine.**

- (a) The Maine State Plan for State and local government employees received initial approval from the Assistant Secretary on August 5, 2015.
- (b) The Plan further provides assurances of a fully trained, adequate staff within three years of plan approval, including 2 safety and 1 health compliance officers for enforcement inspections, and 3 safety and 1 health consultants to perform consultation services in the public sector. The State has assured that it will continue to provide a sufficient number of adequately trained and qualified personnel necessary for the enforcement of standards as required by 29 CFR 1956.10. The State has also given satisfactory assurance of adequate funding to support the Plan.
- (c) The plan only covers State and local government employers and employees within the State. For additional details about the plan, please visit <https://www.osha.gov/dcsp/osp/stateprogs/maine.html>.

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